

[Cite as *In re Woodfork*, 2004-Ohio-7342.]

IN THE COURT OF CLAIMS OF OHIO
VICTIMS OF CRIME DIVISION

IN RE: JOLENE M. WOODFORK	:	Case No. V2004-60130
JOLENE M. WOODFORK	:	<u>ORDER OF A THREE-</u>
Applicant	:	<u>COMMISSIONER PANEL</u>
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{¶ 1} The applicant filed a reparations application seeking reimbursement of expenses incurred with respect to a December 16, 2001 assault incident. On November 17, 2003, the Attorney General granted the applicant an award of reparations in the amount of \$1,085.47 for unreimbursed allowable expense (\$125.96) and work loss (\$959.51). However, the Attorney General denied reimbursement for certain expenses pursuant to R.C. 2743.60(D) contending that the applicant had insurance coverage with Aetna. On December 1, 2003, the applicant filed a request for reconsideration. On January 28, 2004, the Attorney General granted the applicant an additional award in the amount of \$1,509.43 for unreimbursed work loss incurred from December 17, 2001 through January 5, 2002. On February 6, 2004, the applicant filed a notice of appeal. Hence, this matter came to be heard before this panel of three commissioners on October 20, 2004 at 11:20 A.M.

{¶ 2} The applicant, applicant’s counsel, and an Assistant Attorney General attended the hearing and presented testimony, exhibits, and oral argument for the panel’s consideration. Jolene Woodfork testified that on the day of the assault, December 16, 2001, she was employed as a mail carrier with the United States Postal Service. Ms. Woodfork stated that she was

released to return to work for light duty assignments on January 7, 2002 and that she subsequently requested light duty tasks from her employer on January 9, 2002. However, Ms. Woodfork explained that her supervisor, Darlene Jones, on January 19, 2002 denied her request and insisted that she submit additional evidence of her inability to work her regular mail route. Ms. Woodfork testified that shortly thereafter she submitted the necessary documentation to her supervisor, however she was only sporadically assigned light duty tasks between January 19, 2002 and February 16, 2002. Ms. Woodfork explained that when no light duty assignments were available for her, she was sent home.

{¶ 3} Applicant's counsel stated, based upon exhibits A-E and the applicant's testimony, that the claim should be allowed. Counsel asserted that Ms. Woodfork incurred work loss between January 7, 2002 and February 16, 2002 because she was unable to perform consistent light duty assignments for her employer. Counsel argued that the causal connection between the assault and the applicant's inability to work light duty mandates that she be reimbursed additional work loss from the fund.

{¶ 4} The Assistant Attorney General maintained that the applicant has already been reimbursed the proper amount of work loss from the fund. The Assistant Attorney General argued that the applicant's testimony that she was prevented from working light duty assignments is self-serving and is insufficient evidence to grant the applicant an additional work loss award for the claimed time period. The Assistant Attorney General insisted that the applicant's grievance, due to the lack of light duty tasks, is with the United States Postal Service and not with the victim's program.

{¶ 5} From review of the file and with full and careful consideration given to all the information presented at the hearing, this panel makes the following determination. The Assistant Attorney General's argument that the applicant's grievance is with the United States Postal Service (for not having ample light duty work available) is not well-taken by this panel. Whether Ms. Woodfork's employer purposely or involuntarily prevented her from working light duty is irrelevant, in this case, because but for the criminally injurious conduct Ms. Woodfork would have continued to work her normal mail route and would not have incurred any work loss. Accordingly, the applicant should be reimbursed work loss she incurred between January 7, 2002 through February 16, 2002. Therefore, the January 28, 2004 decision of the Attorney General shall be reversed and the claim shall be remanded to the Attorney General for economic loss calculations and decision.

IT IS THEREFORE ORDERED THAT

- 1) The January 28, 2004 decision of the Attorney General is REVERSED to render judgment in favor of the applicant;
- 2) This claim is remanded to the Attorney General for economic loss calculations and decision consistent with the panel's findings;
- 3) This order is entered without prejudice to the applicant's right to file a supplemental compensation application, within five years of this order, pursuant to R.C. 2743.68;

- 4) Costs are assumed by the court of claims victims of crime fund.

JAMES H. HEWITT III
Commissioner

KARL H. SCHNEIDER
Commissioner

GREGORY BARWELL
Commissioner

ID #7-dld-tad-110104

A copy of the foregoing was personally served upon the Attorney General and sent by regular mail to Cuyahoga County Prosecuting Attorney and to:

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